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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,617	01/26/2004	Edward R. Rhoads	ITL0241DIUS (P7376D)	8924
21906 7590 07/29/2009 TROP, PRUNER & HU, P.C. 1616 S. VOSS ROAD, SUITE 750 HOUSTON, TX 77057-2631				
EXAMINER				
LI ZHUO H				
ART UNIT		PAPER NUMBER		
2185				
MAIL DATE		DELIVERY MODE		
07/20/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/764,617

Applicant(s)

RHOADS ET AL.

Examiner

ZHUO H. LI

Art Unit

2185

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 26-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

Response to Amendment

1. This Office action is in response to amendment filed 5/1/2009.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-15 and 26-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Tallam (US PAT. 6,948,099).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

Regarding claim 1, Tallam discloses a method of organizing stored information comprising partitioning on a non-volatile, reprogrammable semiconductor memory (14, figure 1

and col. 2 lines 28-44) into a plurality of partitions (20 and 22, figure 2 and col. 2 line 66 through col. 3 line 15), each having a defined address (col. 2 line 45 through col. 3 line 15 and col. 4 lines 59-67), and storing the defined address for one partition in another partition (col. 2 line 66 through col. 4 line 6 and col. 6 lines 24-38).

Regarding claim 2, Tallam discloses the method further including storing information about the number of partitions (col. 4 line 59 through col. 5 line 39).

Regarding claims 3-5, Tallam discloses the method further including storing a boot loader (102, figure 5), a file system (106, figure 5), and a kernel for an operating system (104, figure 5) in one of said partition (col. 4 line 59 through col. 5 line 18).

Regarding claim 6, Tallam discloses the method further including storing information in association with the addresses about whether or not an integrity check needs to be done on the data stored at association address (col. 4 lines 26-50).

Regarding claims 7-9, Tallam discloses the method further including storing, in association with the address of a partition, information about the type of information stored in the partition, and storing information about whether or not the information stored at given partition is a boot loader, a kernel or a file system, and storing information about the load address for said information in association with said address (col. 4 line 59 through col. 5 line 38, figure 5 and col. 8 lines 9-48).

Regarding claim 10, Tallam discloses a non-volatile, re-programmable semiconductor memory (14, figure 1 and col. 2 lines 36-44), comprising a plurality of addressable partitions, (20 and 22, figure 14), including a partition storing an operating system, i.e., primary operation system (22, figure 2), a storage location storing an address for one of said partitions in

association with information about the information stored in said partition (20, figure 3, and col. 3 line 16 through col. 4 line 25).

Regarding claim 11, Tallam discloses a non-volatile, re-programmable semiconductor memory is a FLASH memory (col. 2 lines 36-44).

Regarding claims 12-15, Tallam discloses a non-volatile, re-programmable semiconductor memory wherein one of the said partitions stores a basic input/output system (32, figure 3), a file system (106, figure 5), a kernel for an operating system (104, figure 5), and a boot loader (102, figure 5).

Regarding claim 26, Tallam discloses a processor-based system (12, figure 6) comprising a processor (65, figure 6), a volatile memory (68, figure 6) coupled to said processor, and a re-programmable, non-volatile semiconductor memory (14 figure 6) coupled to said processor (col. 5 line 43 through col. 6 line 24), the semiconductor memory including a plurality of partitions (20 and 22, figure 2), one of said partitions storing an operating system (22, figure 2), and another of said partitions storing the address of the other partitions in association with information about what is stored in each of the partitions (figure 5 and col. 4 line 59 through col. 5 line 38).

Regarding claim 27, the limitations of the claim are rejected as the same reasons set forth in claim 11.

Regarding claims 28-30, the limitations of the claims are rejected as the same reasons set forth in claims 12-25.

Response to Arguments

4. Applicant's arguments filed 5/1/2009 have been fully considered but they are not persuasive.

In response applicant assertion that examiner has no rebuttal in previous Office action, examiner respectfully disagree. Examiner has clearly pointed out in previous Office action that the evidence provide in affidavit filed 1/20/2009 was insufficient to overcome the rejection. While the practitioner's statements are informative, they do not constitute evidence *per se*, particularly the statement made in paragraph 3 of the affidavit. Since applicant failed to provide a satisfactory showing that relevant portions of the patent originated with or were obtained from the instant application and that that subject matter is now claimed, the affidavit filed 1/20/2009 cannot overcome the art rejection of claims 1-15 and 26-30. In addition, examiner pointed out in previous Office action that applicant did not provide separate arguments with respect to art rejection of claims 1-15 and 26-30. Thus, the rejection is maintained. Therefore, examiner has rebuttal in accordance with the previous Office action.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ZHUO H. LI whose telephone number is (571)272-4183. The examiner can normally be reached on Mon - Fri 6:00am - 2:30pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sanjiv Shah can be reached on 571-272-4098. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Zhuo H Li/
Examiner, Art Unit 2185

/Tuan V. Thai/
Primary Examiner, Art Unit 2185